

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re INDYMAC MORTGAGE-BACKED
SECURITIES LITIGATION

Master Docket No. 09-Civ.-04583 (LAK)
ECF CASE

This Document Relates To:

ALL ACTIONS

**MISSISSIPPI PERS' OBJECTION TO THE PARTIAL SETTLEMENT
AND REQUEST FOR THIS COURT'S *IN CAMERA* REVIEW
OF THE SETTLING DEFENDANTS' FINANCIAL STATEMENTS**

The Public Employees' Retirement System of Mississippi ("PERS") is a class representative for purposes of representing the settlement class in the partial settlement before this Court for its approval. *See* Stipulation and Agreement of Partial Settlement ("Stipulation"), Dkt. 360-1, ¶ 2. PERS previously sought to intervene for purposes of pursuing claims based on offerings in which the Lead Plaintiffs Wyoming Retirement System and Wyoming State Treasurer had not invested. Dkt. 203.

The Mississippi Attorney General is constitutionally vested with the authority to bring lawsuits on behalf of state agencies, including PERS, and is charged with managing all litigation on behalf of the state of Mississippi. Thus, the Attorney General has a duty not only to PERS, but also to the state pensioners and retirees who are members of PERS, to assure that the partial settlement is fair, adequate, and reasonable. In order to fulfill that duty, the Attorney General and undersigned counsel sought access to the financial statements executed by the settling

defendants S. Blair Abernathy, John Olinski, Samir Grover, Simon Heyrick, and Victor

Woodworth described in paragraph U of the Stipulation. Paragraph U states in pertinent part:

Lead Counsel also has been permitted access to financial statements prepared and signed by each of the Settling Defendants, under penalty of perjury, containing good faith estimates of their respective financial conditions and net worth. The parties acknowledge that the Settling Defendants' warranties as to the accuracy of each of their respective financial statements constitute a material condition of the Partial Settlement and part of the consideration provided to Plaintiffs in this Partial Settlement. The information contained in these financial statements is confidential and sensitive. Such information shall not be used for any purpose other than related to this Partial Settlement, shall not be admissible into evidence against any Settling Defendant in any subsequent proceeding unrelated to this Partial Settlement, and shall not, directly or indirectly, be disclosed, distributed, publicized or made available or accessible to any individual or entity (including but not limited to the media) other than Lead Counsel, such other counsel that Settling Defendants permit, or in camera to the Judge presiding over this Action.

(emphasis added). In seeking access to the financial statements, the Attorney General sought to assess whether any of the settling defendants have sufficient assets such that they should make personal contributions to the partial settlement rather than relying upon insurance monies to settle the claims against them. Although both Lead Counsel and undersigned counsel negotiated the issue of access to the financial statements in good faith, we were not able to reach an agreement.

Paragraph U of the Stipulation allows this Court to conduct an *in camera* review of the financial statements. The Attorney General respectfully requests that the Court conduct such an *in camera* review and make findings on the record to assure PERS and other class members that none of the individual defendants have sufficient assets to warrant personal contributions to the partial settlement.

In response to the requirements in paragraph 17 of this Court's September 6, 2012 Order Certifying the Class for Purposes of Partial Settlement and Approving Notice to the Settlement Class, PERS states as follows:

1. The full name, address, and telephone number of the objecting class member is the Public Employees' Retirement System of Mississippi, 429 Mississippi Street, Jackson, MS 39201-1005, 601-359-3589. The Executive Director of PERS is Pat Robertson. PERS is acting by and through the Office of the Attorney General located at 550 High Street, Suite 1200, Jackson, MS 39201-1113.

2. The Declaration of George W. Neville in Support of the Public Employees' Retirement System of Mississippi's Motion to Intervene (Dkt. 204-7) and Exhibit A thereto (Miss PERS' Transactions in IndyMac Mortgage-Backed Certificates) enumerates PERS' transactions in certificates 2006-AR1, 2006-AR3, 2006-AR12, 2006-AR14, and 2006-AR33 included in the Settlement Class definition. Certificate 2006-AR13 (the last two entries in Exhibit A) is not included in the Settlement Class definition. In addition, paragraph 2 of the Stipulation provides that PERS is a class representative.

3. The ground for the objection is set forth in Paragraph U of the Stipulation which allows this Court's *in camera* review of the financial statements.

4. The objection relies upon documents filed as Dkt. 360-1 (the Stipulation) and Dkt. 204-7 (the Declaration of George W. Neville and Exhibit A thereto). Those documents are attached to the Declaration of Joy A. Kruse submitted herewith.

5. A representative from the Mississippi Attorney General's Office will attend the Settlement Hearing and will present any further argument through undersigned counsel from Lieff Cabraser.

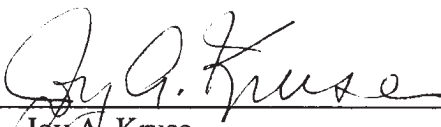
6. Neither PERS nor Lieff Cabraser has appeared as settlement objectors or as counsel for objectors in the preceding five years.

7. The signature of Special Assistant Attorney General S. Martin Millette, III is set forth below. Due to illness, an additional signature from the Executive Director of PERS, Pat Robertson, could not be obtained on November 26th or November 27th, but will be provided prior to December 11, 2012, the date by which reply briefs must be filed.

PERS does not intend to present any witnesses or exhibits at the Settlement Hearing unless issues are raised in a reply brief that need to be addressed by testimony or additional exhibits.

Dated: November 27, 2012

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

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Dated: November 27, 2012

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with permission jak

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